

1 **LAW OFFICE OF WAYNE A. SILVER**

2 Wayne A. Silver (108135)

3 643 Bair Island Road,

4 Suite 403

5 Redwood City, CA 94063

6 Phone: (650) 282-5970

7 Fax: (650) 282-5980

8 Email: ws@waynesilverlaw.com

9 *Attorney for KENNETH Y. KAI and*

10 *TAE K. KAI, Trustees of the Kai Family 1998 Trust*

11 **UNITED STATES BANKRUPTCY COURT**

12 **NORTHERN DISTRICT OF CALIFORNIA**

13 **SAN JOSE DIVISION**

14 In re:

15 MICHAEL HAROUTUN MIROYAN,

16 Debtor.

Case No.: 18-52601-MEH

Chapter 13

RS No.: WS110

Date: January 31, 2019

Time: 9:30 a.m.

Court: 3020, Hon. M. Elaine Hammond

17 **REQUEST FOR JUDICIAL NOTICE**

18 KENNETH Y. KAI and TAE K. KAI (“Movants”), Trustees of the Kai Family 1998 Trust  
19 (“Kai Trust”) request the Court take judicial notice under Federal Rule of Evidence 201 of the  
20 following pleadings and documents in Civil Action No. 15-1-0164K against *Hawaiian Riverbend,*  
21 *LLC* in the Circuit Court of the Third Circuit State of Hawaii:

Exhibit	Description
One	Commissioner’s Report, Declaration of Commissioner, Exhibits “1” – “8”, Certificate of Service
Two	Plaintiff’s Notice of Bankruptcy Filed by Michael Haroutun Miroyan; Exhibit “A”; Certificate of Service

26 Under Fed. R. Evid. 201(d), judicial notice may be taken at any stage of a proceeding. The  
27 Court may take judicial notice of any matter “not subject to reasonable dispute because it: (1) is  
28 generally known within the trial court’s territorial jurisdiction; or (2) can be accurately and readily

1 determined from sources whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 201(b).

2 Courts may take judicial notice of proceedings in other courts. *U.S. ex rel Robinson*  
3 *Rancheria Citizens Council v. Borneo, Inc.*, 971 F.2d 244, 248 (9th Cir. 1992) (citing *St. Louis*  
4 *Baptist Temple, Inc. v. FDIC*, 605 F.2d 1169 (10th Cir. 1979)) (“[W]e ‘may take notice of  
5 proceedings in other courts, both within and without the federal judicial system, if those proceedings  
6 have a direct relation to matters at issue.’”). The contents of these filings are public records that are  
7 “not subject to reasonable dispute [and] capable of accurate and ready determination by resort to  
8 sources whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 201(b)(2).

9 The Court may also consider facts subject to judicial notice in the context of a FRCP 12(b)(6)  
10 motion to dismiss. *Mullis v. U.S. Bankruptcy Court*, 828 F.2d 1385, 1388 (9th Cir. 1987).

11 Dated: January 16, 2019

12 /s/ Wayne A. Silver

13 Wayne A. Silver, attorney for *KENNETH Y.*  
14 *KAI and TAE K. KAI, Trustees of the Kai*  
15 *Family 1998 Trust*

## EXHIBIT ONE

[Commissioner's Report, Declaration of  
Commissioner, Exhibits "1" – "8", Certificate of  
Service - Civil Action No. 15-1-0164K against  
*Hawaiian Riverbend, LLC* in the Circuit Court of the  
Third Circuit State of Hawaii]

COPY

FILED

Schlueter, Kwiat & Kennedy LLLP

MICHAEL H. SCHLUETER 8534  
JASON R. KWIAT 9188  
ANDREW M. KENNEDY 9734  
75-167 Kalani Street, Suite 201  
Kailua-Kona, Hawaii 96740  
Tel. No. (808) 987-7275  
Fax No. (808) 443-0339  
inquiries@kona-lawyer.com

2018 DEC 20 AM 9:37

HENRIETTA CHONG, CLERK  
THIRD CIRCUIT COURT  
STATE OF HAWAII

Counsel for Defendant

IN THE CIRCUIT COURT OF THE THIRD CIRCUIT

STATE OF HAWAII

KENNETH Y. KAI and TAE K. KAI,  
TRUSTEES OF THE KAI FAMILY 1998  
TRUST

vs.

HAWAIIAN RIVERBEND, LLC;  
COUNTY OF HAWAII; JOHN DOES 1-  
10; JANE DOES 1-10; DOE  
CORPORATIONS 1-10; DOE  
PARTNERSHIPS 1-10; DOE ENTITIES  
1-10; and DOE GOVERNMENTAL  
ENTITIES 1-10,

Defendant.

CIVIL No. 15-1-0164K

COMMISSIONER'S REPORT,  
DECLARATION OF COMMISSIONER,  
EXHIBITS "1"- "8"; CERTIFICATE OF  
SERVICE

Judge: Hon. Robert D.S. Kim

**COMMISSIONER'S REPORT**

COMES NOW, Court Appointed Commissioner, ANDREW M. KENNEDY, of  
SCHLUETER, KWIAT, & KENNEDY LLLP, and reports as follows:

1. Commissioner was appointed in this case pursuant to an order granting plaintiffs' renewed motion for summary judgment and for interlocutory decree of foreclosure, filed December 17, 2015 [Filed March 21, 2018] ("Order").
2. The order directs Commissioner to sell at public auction the property listed at TMK No (3) 6-8-002-053.

West Hawaii Today.

12. Additional expenses in the form of the Broker's Price Opinion are anticipated, and a supplement to this report will be submitted.

DATED: Kailua-Kona, Hawaii, December 18, 2018

Schlueter, Kwiat & Kennedy LLP

BY:

  
\_\_\_\_\_  
ANDREW M. KENNEDY  
COURT APPOINTED COMMISSIONER

**DECLARATION OF ANDREW M. KENNEDY**

1. I am an attorney licensed in the State of Hawaii. I am the Court appointed commissioner in this foreclosure action. The following is true to the best of my knowledge and belief.
2. I was appointed Commissioner in this case pursuant to an order granting plaintiffs' renewed motion for summary judgment and for interlocutory decree of foreclosure, filed December 17, 2015 [Filed March 21, 2018] ("Order")
3. On April 24, 2018, I sent an introductory letter to the parties in this matter.
4. Attached hereto as Exhibit "1" is a true and correct copy of the April 24, 2018 letter.
5. In March I received a phone call from a Mr. Michael Miroyan, who told me he was the owner of the property. I noted that the Defendant in this matter was Hawaiian Riverbend LLC and the attorney of record for the matter is Paul Sulla, Esq. However, as a courtesy, I continued to keep Mr. Miroyan informed as to the proceedings.
6. Mr. Miroyan was abusive, made many threatening remarks, would leave numerous voice messages threatening me and my law partners. I requested that all communication went through the attorney of record for this case, Paul Sulla, Esq. However, I did keep Mr. Miroyan informed as to the foreclosure sale process, the dates of the auction and property viewings, and the notice of foreclosure and fact sheet.
7. On two separate occasions I made submissions to the Court regarding Mr. Miroyan's conduct.
8. Attached hereto as Exhibit "2" is April 24, 2018 submission regarding Michael Miroyan
9. Attached hereto as Exhibit "3" is September 24, 2018 submission regarding Michael Miroyan
10. I prepared a notice of foreclosure sale for publication.
11. My initial notice of foreclosure included the language "agricultural lot" in the property description. Pursuant to request from Mr. Miroyan, I deleted that language from the notice.

12. The notice ran for publication in West Hawaii Today, a newspaper of general circulation in the district where the property is located, on October 21, 2018, October 28, 2018, November 4, 2018.
13. Attached hereto as Exhibit "4" is a true and correct copy of the Affidavit of Publication from West Hawaii Today
14. Attached hereto as Exhibit "5" is a true and correct copy of the payment receipt in the amount of \$826.56 from West Hawaii Today.
15. I prepared a fact sheet for circulation.
16. My initial fact sheet included the language "agricultural lot" in the property description. Pursuant to request from Mr. Miroyan, I deleted that language from the fact sheet.
17. Attached hereto as Exhibit "6" is a true and correct copy of the fact sheet in this case.
18. Numerous persons contacted me interested in the property. I forwarded them fact sheets and if requested a copy of the Order for summary judgment.
19. I went to Waikola villages and provided the fact sheet to the local realtor, as well as to the community association for posting, and posted it at the local coffee shop.
20. I held two property viewings for the property on November 3, 2018 and November 4, 2018. The property is a vacant lot, and I set up a table on the southwest corner of the lot for much of the viewing time. Nobody appeared or approached me either day.
21. On November 26, 2018, an auction was held at the flagpole at Hale Halawai, 75-5760 Alii Drive, Kailua-Kona, HI.
22. Matthew Shannon appeared on behalf of the bank. One other person, Roger Wehrsig, was present. Mr. Wehrsig did not provide any ability to pay, nor did he indicate an intention to bid.
23. At 12:00, a description of the property was read aloud, the terms of the auction were also read aloud. Matthew Shannon submitted a credit bid for the Plaintiff in the amount of \$1,248,739.72. A closing call of going once, going twice, going three times, sold, was made. No other bids were submitted, the property was sold to the Plaintiff.
24. I have reviewed the County of Hawaii Real Property Tax Office filing on this property and the total market value is listed at \$658,000.00.
25. Attached hereto as Exhibit "7" is the County of Hawaii Real Property Tax Office filing

for this property

26. In light of the bid being significantly higher than the market value listed with the County of Hawaii Real Property Tax Office, I submit that this is a fair and reasonable price for this property.
27. I have also contacted a licensed broker to perform a broker's price opinion on this property.
28. I have incurred fees in this matter total \$6,671.45. This reflects 36.6 hours, which includes a 2 hours of additional work that Commissioner anticipates will be required to attend the confirmation and to prepare or execute any documents to wind up this transaction. This includes a GET tax at the rate of 4.16%.
29. Attached hereto as Exhibit "8" is a true and correct copy of my invoice for this matter.
30. I have incurred costs in the amount of \$826.56 for advertising the Property in West Hawaii Today.
31. Additional expenses in the form of the Broker's Price Opinion are anticipated, and a supplement to this report will be submitted.

I declare under penalty of law that the foregoing is true and correct to the best of my knowledge.

DATED: Kailua-Kona, Hawaii, December 18, 2018

Schlueter, Kwiat & Kennedy LLP

BY:

  
\_\_\_\_\_  
ANDREW M. KENNEDY  
COURT APPOINTED COMMISSIONER



EXHIBIT "1"

# SCHLUETER, KWIAT & KENNEDY LLLP

April 24, 2018

PAUL SULLA, ESQ.  
106 Kamehameha Ave, #2A  
Hilo, HI 96720  
Attorney for Hawaii Riverbend LLC

Re: KENNETH Y. KAI and TAE K. KAI, TRUSTEES OF THE KAI FAMILY 1998 TRUST v. HAWAIIAN RIVERBEND, LLC; COUNTY OF HAWAII; JOHN DOES 1-10; JANE DOES 1-10; DOE CORPORATIONS 1-10; DOE PARTNERSHIPS 1-10; DOE ENTITIES 1-10; and DOE GOVERNMENTAL ENTITIES 1-10; CIVIL No. 15-1-0164K

Dear Mr. Sulla:

I am the court appointed commissioner in the above-captioned matter pursuant to ORDER GRANTING PLAINTIFFS' RENEWED MOTION FOR SUMMARY JUDGMENT AND FOR INTERLOCUTORY DECREE OF FORECLOSURE, FILED DECEMBER 17, 2015. I have been appointed to sell at public auction the property located at TMK NO. (3) 6-8-002-053.

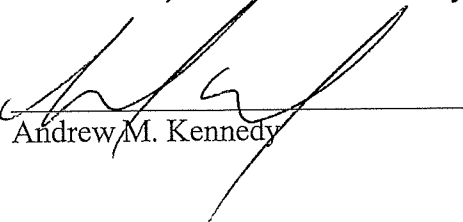
I ask that you inform your client of the following:

I am writing to inform you of the opportunity to participate in open houses prior to the public auction of this property. If you would like an open house, please let me know within 20 days. If I do not hear from you, or you otherwise fail to cooperate with the holding of an open house, the property will be sold without the benefit of an open house. An open house is intended to benefit you to help obtain a higher price for the property. In the event the proceeds of the sale are insufficient for the debt in this foreclosure action, you could be held liable for any deficiency. If I do not hear from you within 20 days, I will proceed with a motion to sell the property at auction without an open house.

Please contact me at 808-987-7275 to inform me of your client's preference on how to proceed

Very Truly Yours,

**Schlueter, Kwiat & Kennedy LLLP**



Andrew M. Kennedy

75-167 Kalani Street  
Suite 201  
Kailua-Kona, HI 96740  
(808) 987-7275  
fax (808) 443-0339  
andrew@kona-lawyer.com

CC:

MATTHEW C. SHANNON, ESQ.  
BAYS LUNG ROSE HOLMA  
Topa Financial Center  
700 Bishop St, Suite 900

CRAIG MASUDA, ESQ  
CORPORATION COUNSEL  
Hilo Lagoon Centre  
101 Aupuni St, Unit 325  
Hilo, HI 96720

75-167 Kalani St, Suite 201  
Kailua-Kona, HI 96740  
(808) 987-7275  
fax (808) 443-0339

EXHIBIT "2"

Schlueter, Kwiat & Kennedy LLP

MICHAEL H. SCHLUETER 8534  
JASON R. KWIAT 9188  
ANDREW M. KENNEDY 9734  
75-167 Kalani Street, Suite 201  
Kailua-Kona, Hawaii 96740  
Tel. No. (808) 987-7275  
Fax No. (808) 443-0339  
inquiries@kona-lawyer.com

Counsel for Defendant

IN THE CIRCUIT COURT OF THE THIRD CIRCUIT  
STATE OF HAWAII

KENNETH Y. KAI and TAE K. KAI,  
TRUSTEES OF THE KAI FAMILY 1998  
TRUST

vs.

HAWAIIAN RIVERBEND, LLC;  
COUNTY OF HAWAII; JOHN DOES 1-  
10; JANE DOES 1-10; DOE  
CORPORATIONS 1-10; DOE  
PARTNERSHIPS 1-10; DOE ENTITIES  
1-10; and DOE GOVERNMENTAL  
ENTITIES 1-10,

Defendant.

CIVIL No. 15-1-0164K

COMMISSIONER'S SUBMISSION TO THE  
COURT RE: MICHAEL MIROYAN;  
DECLARATION OF ANDREW M.  
KENNEDY; EXHIBITS "A"; CERTIFICATE  
OF SERVICE

Judge: Hon. Robert D.S. Kim

**COMMISSIONER'S SUBMISSION TO THE COURT RE: MICHAEL MIROYAN**

COMES NOW, Court Appointed Commissioner, ANDREW M. KENNEDY, of  
SCHLUETER, KWIAT, & KENNEDY LLP, and makes the following submission to the Court  
regarding Michael Miroyan, as set forth in the Declaration of Andrew M. Kennedy.

DATED: Kailua-Kona, Hawaii, April 24, 2018

Schlueter, Kwiat & Kennedy LLP

BY:

COURT APPOINTED COMMISSIONER

**DECLARATION OF ANDREW M. KENNEDY**

1. I am an attorney licensed in the State of Hawaii. I am the Court appointed commissioner in this foreclosure action. The following is true to the best of my knowledge and belief.
2. Upon my appointment as commissioner in this matter, I was contacted by a Mr. Michael Miroyan ("Miroyan")
3. Miroyan informed me that he was the owner of the subject property
4. Upon review of the file, I became aware that Miroyan is represented by Paul Sulla, Esq. ("Sulla") in this matter
5. As such, I contacted Miroyan and informed him that all of my communications would be through Sulla
6. Miroyan then sent me a number of emails on April 10, 2018, requesting that I communicate with him.
7. On April 20 and April 21, 2018, Miroyan sent a series of vulgar emails to me.
8. On the weekend of April 20-22, Miroyan left a number of aggressive messages on my firm's answering machine
9. On April 23, 2018, I responded to Miroyan to informing him that I would be corresponding through his attorney on this matter, to please refrain from sending these emails or leaving the type of messages he has been leaving on our machine, and informing Miroyan that I would be submitting these emails to the Court.
10. Attached hereto as Exhibit "A" is a true and correct copy of two emails sent on April 20, 2018 and April 21, 2018.

I declare under penalty of law that the foregoing is true and correct to the best of my knowledge.

DATED: Kailua-Kona, Hawaii, April 24, 2018  
Schlueter, Kwiat & Kennedy LLP

BY:

  
COURT APPOINTED COMMISSIONER

# EXHIBIT “A”

4/23/2018

Gmail - Fwd: Kennedy you ain't no good you're a piece of shit



Schlueter, Kwiat & Kennedy LLLP <sklawkona@gmail.com>

---

## Fwd: Kennedy you ain't no good you're a piece of shit

---

Michael Miroyan <mac8881@me.com>  
To: sklawkona@gmail.com

Fri, Apr 20, 2018 at 11:17 PM

Your commissioner Slueter your another one that doesn't keep me informed or follow the rule when did you hold the open house on my property you didn't follow the rules I told you I wanted to have an open house and I told Mr. Kennedy the one time I talk to that flaming fucking asshole that I wanted to have an open house so fuck you to Schlueter you piece of shit illegal corrupt motherfucker you piece of shit motherfucker....You don't want to follow the rules motherfucker you want to rescue him justice there is going to be no fucking auction I'm gonna put you up for auction you piece of shit

Sent from iPhoneHRmm  
E  
Begin forwarded message:

**From:** Michael Miroyan <mac8881@me.com>  
**Date:** April 21, 2018 at 2:15:02 AM PDT  
**To:** andrew@kona-lawyer.com  
**Subject:** Kennedy you ain't no good you're a piece of shit

So check this out Mr. Andrew fucking Kennedy fuck you motherfucker you won't even give me the date of the auction of my property you fucking piece of shit I'm coming to see you you motherfucker I'm a gonnax

Sent from iPhoneHRmm



CERTIFICATE OF SERVICE

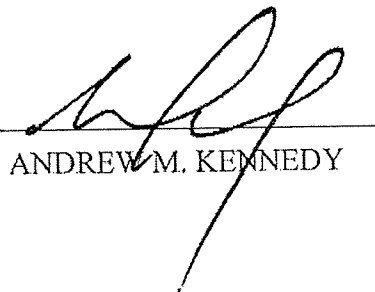
I hereby certify that a copy hereof was served by U.S. First Class Mail upon:

MATTHEW C. SHANNON, ESQ.  
BAYS LUNG ROSE HOLMA  
Topa Financial Center  
700 Bishop St, Suite 900

PAUL SULLA, ESQ.  
106 Kamehameha Ave, #2A  
Hilo, HI 96720

CRAIG MASUDA  
CORPORATION COUNSEL  
Hilo Lagoon Centre  
101 Aupuni St, Unit 325  
Hilo, HI 96720

April 24, 2018



ANDREW M. KENNEDY

EXHIBIT "3"

Schlueter, Kwiat & Kennedy LLP

MICHAEL H. SCHLUETER 8534  
JASON R. KWIAT 9188  
ANDREW M. KENNEDY 9734  
75-167 Kalani Street, Suite 201  
Kailua-Kona, Hawaii 96740  
Tel. No. (808) 987-7275  
Fax No. (808) 443-0339  
inquiries@kona-lawyer.com

Counsel for Defendant

IN THE CIRCUIT COURT OF THE THIRD CIRCUIT

STATE OF HAWAII

KENNETH Y. KAI and TAE K. KAI,  
TRUSTEES OF THE KAI FAMILY 1998  
TRUST

vs.

HAWAIIAN RIVERBEND, LLC;  
COUNTY OF HAWAII; JOHN DOES 1-  
10; JANE DOES 1-10; DOE  
CORPORATIONS 1-10; DOE  
PARTNERSHIPS 1-10; DOE ENTITIES  
1-10; and DOE GOVERNMENTAL  
ENTITIES 1-10,

Defendant.

CIVIL No. 15-1-0164K

COMMISSIONER'S SECOND  
SUBMISSION TO THE COURT RE:  
MICHAEL MIROYAN; DECLARATION  
OF ANDREW M. KENNEDY; EXHIBITS  
"A"; CERTIFICATE OF SERVICE

Judge: Hon. Robert D.S. Kim

**COMMISSIONER'S SECOND SUBMISSION TO THE COURT RE: MICHAEL  
MIROYAN**

COMES NOW, Court Appointed Commissioner, ANDREW M. KENNEDY, of  
SCHLUETER, KWIAT, & KENNEDY LLP, and makes the following submission to the Court  
regarding Michael Miroyan, as set forth in the Declaration of Andrew M. Kennedy.

DATED: Kailua-Kona, Hawaii, September 24, 2018

Schlueter, Kwiat & Kennedy LLP

BY:

ANDREW M. KENNEDY

**DECLARATION OF ANDREW M. KENNEDY**

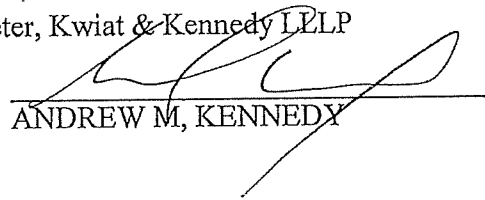
1. I am an attorney licensed in the State of Hawaii. I am the Court appointed commissioner in this foreclosure action. The following is true to the best of my knowledge and belief.
2. On September 19, 2018, I received a phone call from property owner, Michael Miroyan.
3. In the past I have received vulgar and threatening messages from Mr. Miroyan.
4. Mr. Miroyan is represented by Paul Sulla, Esq., in this matter.
5. I have informed Mr. Miroyan that, in light of the nature of his communications, all communication should go through his attorney, and that he did not have permission to contact me.
6. On September 19, 2018, Mr. Miroyan called me. This was a very vulgar phone call in which I was called a "pussy" among other inappropriate comments.
7. This is the second submission to the Court regarding Mr. Miroyan's behavior, the other being submitted in late April.

I declare under penalty of law that the foregoing is true and correct to the best of my knowledge.

DATED: Kailua-Kona, Hawaii, September 24, 2018

Schlueter, Kwiat & Kennedy LLP

BY:

  
ANDREW M. KENNEDY

CERTIFICATE OF SERVICE

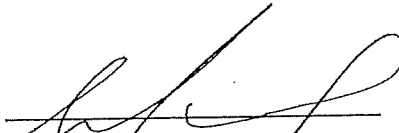
I hereby certify that a copy hereof was served by U.S. First Class Mail upon:

MATTHEW C. SHANNON, ESQ.  
BAYS LUNG ROSE HOLMA  
Topa Financial Center  
700 Bishop St, Suite 900

PAUL SULLA, ESQ.  
106 Kamehameha Ave, #2A  
Hilo, HI 96720

CRAIG MASUDA, ESQ  
CORPORATION COUNSEL  
Hilo Lagoon Centre  
101 Aupuni St, Unit 325  
Hilo, HI 96720

September 24, 2018



ANDREW M. KENNEDY

EXHIBIT "4"

AFFIDAVIT OF PUBLICATION

IN THE MATTER OF  
PANILOLO AVENUE and WAIKOLOA ROAD

STATE OF HAWAII

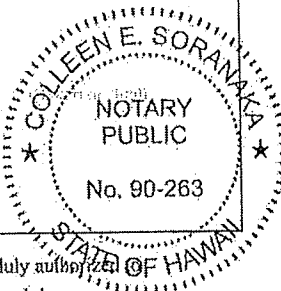
City and County of Honolulu

Doc. Date: NOV - 5 2018 # Pages: 1

Notary Name: COLLEEN E. SORANAKA First Judicial Circuit

Doc. Description: Affidavit of  
Publication

[Signature] NOV - 5 2018  
Notary Signature Date



Gwyn Pang being duly sworn, deposes and says that she is a clerk, duly authorized to execute this affidavit of Oahu Publications, Inc. publisher of The Honolulu Star-Advertiser, MidWeek, The Garden Island, West Hawaii Today, and Hawaii Tribune-Herald, that said newspapers are newspapers of general circulation in the State of Hawaii, and that the attached notice is true notice as was published in the

Honolulu Star-Advertiser 0 times on:

MidWeek 0 times on:

The Garden Island 0 times on:

Hawaii Tribune-Herald 0 times on:

West Hawaii Today 3 times on:

10/21, 10/28, 11/04/2018

Other Publications: 0 times on:

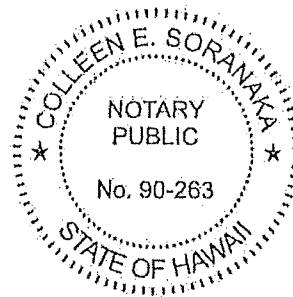
And that affiant is not a party to or in any way interested in the above entitled matter:

Gwyn Pang  
Gwyn Pang

Subscribed to and sworn before me this 5 day of November A.D. 2018

[Signature]  
Colleen E. Soranaka, Notary Public of the First Judicial Circuit, State of Hawaii  
My commission expires: Jan 06 2020

Ad # 0001142667



SP.NO.: \_\_\_\_\_ L.N.

**NOTICE OF FORECLOSURE SALE**  
By order of the Circuit Court of the Third Circuit in Civil No. 15-1-0184K, the below Commissioner has been appointed to sell the named property at public auction. **PROPERTY DESCRIPTION:** Undeveloped lot located on the northeast corner of Panilo Ave and Waikeolo Rd. Tax Map Key: No. (3) 6-8-002-053. **OPEN HOUSES:** November 3, 2018, 10:00 am to 12:00 pm; and November 4, 2018, 10:00 am to 12:00 pm. **AUCTION:** November 26, 2018 at 12:00 p.m. Auction will be held at the flagpole at Hale Halawai located at 75-5760 Alii Drive, Kailua-Kona, HI. **TERMS:** No upset price. Property is to be sold in its "as is" condition, without any representations or warranties whatsoever as to title or possession and by way of a quitclaim conveyance by public commissioner's sale. The successful bidder at Sale shall make a down payment to Commissioner of no less than ten percent (10%) of the highest successful bid price. Payment in cash, money order, by cashier's check or by certified check, provided that Plaintiff may satisfy the down payment by way of offset up to the amount of its secured debt ("credit bid"). Prior to bidding, any person not previously authorized to credit bid must show the Commissioner such person's present ability to make the required down payment immediately upon the close of bidding at Sale. At the Court's discretion, the 10% down payment may be forfeited in whole or in part if the purchaser shall fail to pay the balance of the purchase price as required and set forth below. The Court may, for good cause, allow further bidding. In the event that such bidding is allowed, the first post auction bid must be at least one hundred five percent (105%) of the highest bid at Sale. The Court shall determine the amount of fees of the Commissioner. All costs and expenses of the closing of the Sale, including without limitation, the costs of conveyance, including preparation of the conveyance document, conveyance tax, escrow and recording fees, any proof of title or title insurance, and notary fees, as well as the costs of securing possession of the property, shall be the responsibility of and paid by the purchaser. Neither the availability of title insurance nor securing possession of the property shall be a condition of closing Sale subject to Court confirmation. **DISCLOSURE:** Content of this Notice has been obtained from sources believe by Commissioner to be reliable but may not necessarily be accurate or complete. It is the sole responsibility of all bidders to verify the information contained herein. **COMMISSIONER:** Andrew M. Kennedy, Schlueter, Kwiat & Kennedy LLP, Atrium Court, 75-167 Kalani Street, Suite 201, Hawaii 96740. Tel. No. (808) 987-7275. Email: andrea@kks-lawyer.com (WHT1142667-10/21, 10/28, 11/04/18)

EXHIBIT "5"



Friday, October 19, 2018

Transaction Type: Payment

Order Number: 0001142667

Payment Method: Credit Card

Bad Debt: -

Credit Card Number: XXXXXXXXXXXXXXX5607

Credit Card Expire Date: 6/28/2019

Payment Amount: 826.56

Reference Number: 08530E

Charge to Company: Oahu Publications Inc.

Category: Classified

Credit to Transaction Number: P452906

Invoice Text:

Invoice Notes:

PO Number:

Customer Type: Business Transient

Customer Category:

Customer Status:

Customer Group:

Customer Trade:

Account Number: 94386

Phone Number: 8089877275

Company / Individual: Company

Customer Name: SCHLUETER & KWIAT & KENNEDY LLLP \*

Customer Address: PO BOX 288  
KEALAKEKUA, HI 96750  
USA

Check Number:

Routing Number:

EXHIBIT "6"

# SCHLUETER, KWIAT & KENNEDY LLLP

## FACT SHEET

Pursuant to ORDER GRANTING PLAINTIFFS' RENEWED MOTION FOR SUMMARY JUDGMENT AND FOR INTERLOCUTORY DECREE OF FORECLOSURE (MARCH 21, 2018), in CIVIL NO. 15-1-0164K (Foreclosure) in the Circuit Court of the Third Circuit ("Order"), the undersigned commissioner has been directed to sell the property as described herein by public auction.

Information contained in Fact Sheet has been obtained from sources believed by Commissioner to be reliable, but may not necessarily be accurate or complete and cannot be guaranteed by Commissioner or relied upon by any prospective bidder on the property. **It is the sole responsible of all prospective bidders to verify the information contained herein through their own independent investigation and to hire their own professionals and/or consultants to obtain information regarding the property prior to bidding on the property.**

### I. Property Description

- A. Address: N/A
- B. Tax Map Key: No. (3) 6-8-002-053
- C. Description: Undeveloped lot located on the northeast corner of Paniolo Ave and Waikoloa Rd.

### II. Real Property Tax Information

- A. Market Land Value & Net Taxable Land Value: \$658,000.00
- B. Market Building Value & Net Taxable Building Value: \$0
- C. Total Taxable Value: \$658,000.00

### III. Encumbrances and Other Information

Commissioner directs interested parties' attention to Order referenced above as to existing encumbrances set forth therein. As allowed by law, there may be encumbrances pursuant to Orders and further amounts and charges as may be approved by the Court, which may include Commissioner's fees and costs and real property taxes (see above). There may be other charges to the purchaser as allowed by law. There may be other encumbrances on this property. Bidders must conduct their own investigation as to any encumbrances that may affect this property. Bidders shall be responsible for their own due diligence as to title for this property.

### IV. Sales Information

Auction Date: Monday, November 26, 2018, 12:00 PM (noon)  
Auction Location: Flagpole at Hale Halawai, 75-5760 Alii Drive, Kailua-Kona, HI

75-167 Kalani St, Suite 201  
Kailua-Kona, HI 96740  
(808) 987-7275  
fax (808) 443-0339  
andrew@kona-lawyer.com

# SCHLUETER, KWIAT & KENNEDY LLLP

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Property Viewing(s): Saturday, November 3, 2018 from 10:00 AM to 12:00 PM  
Sunday, November 4, 2018 from 10:00 AM to 12:00 PM

## V. Terms

Property is to be sold in its "as in" condition, without any representations or warranties whatsoever as to title or possession and by way of a quitclaim conveyance by public commissioner's sale ("Sale"), without an upset price, in accordance with Order. Sale is subject to Court's confirmation.

Pursuant to Order, Plaintiff and all parties are authorized to purchase the mortgaged property at Sale. the successful bidder at Sale shall make a down payment to the Commissioner in an amount not less than ten percent (10%) of the highest successful bid price. The payment shall be in cash, money order, by cashier's check or by certified check, provided that Plaintiff may satisfy the down payment by way of offset up to the amount of its secured debt ("credit bid"). Prior to bidding, any person not previously authorized to credit bid must show the Commissioner such persons present ability to make the required down payment immediately upon the close of bidding at Sale. At the Court's discretion, the 10% down payment may be forfeited in whole or in part if the purchaser fails to pay the balance of the purchase price as required and set forth below. The balance of the purchase price shall be paid to the commissioner upon approval and confirmation of the sale.

The Commissioner shall hold the proceeds of Sale subject to the directions of the Court. A hearing shall be held to consider confirmation of Sale. At that hearing, the Court shall hear the proof of claim of any other party and shall determine the priority among the claims of the parties besides Plaintiff. At hearing, the Court may, for good cause, allow further bidding. In the event that such bidding is allowed, the first post auction bid must be at least one hundred five percent (105%) of the highest bid at Sale. The court shall determine the amount of fees of the Commissioner and the amount of the attorneys' fees and costs of Plaintiff and shall direct the final payment of the proceeds of the sale. Upon distribution of the sale proceeds according to the directions of the Court, the Commissioner shall file an accurate accounting of receipts expenses and distributions.

The Commissioner may require that Sale close through an escrow, even if the purchase does not require one. All costs and expenses of the closing of the sale, including without limitation, the costs of conveyance, including preparation of the conveyance document, conveyance tax, escrow and recording fees, any proof of title or title insurance, and notary fees, as well as the costs of securing possession of the property, shall be the responsibility of and paid by the purchaser. Neither the availability of title insurance nor securing possession of the property shall be a condition of closing.

**SALE SHALL NOT BE FINAL UNTIL APPROVED AND CONFIRMED BY THE COURT.**

## VI. Commissioner

Andrew M. Kennedy, Schlueter, Kwiat & Kennedy LLLP, 75-167 Kalani St, Suite 201, Kailua-Kona, HI 96740. Telephone No. 808-987-7275, Fax No. 808-339-1339. Email Andrew@kona-lawyer.com

75-167 Kalani St, Suite 201  
Kailua-Kona, HI 96740  
(808) 987-7275  
fax (808) 443-0339  
andrew@kona-lawyer.com

PARCEL MAP  
PARCEL NUMBER 680020530000

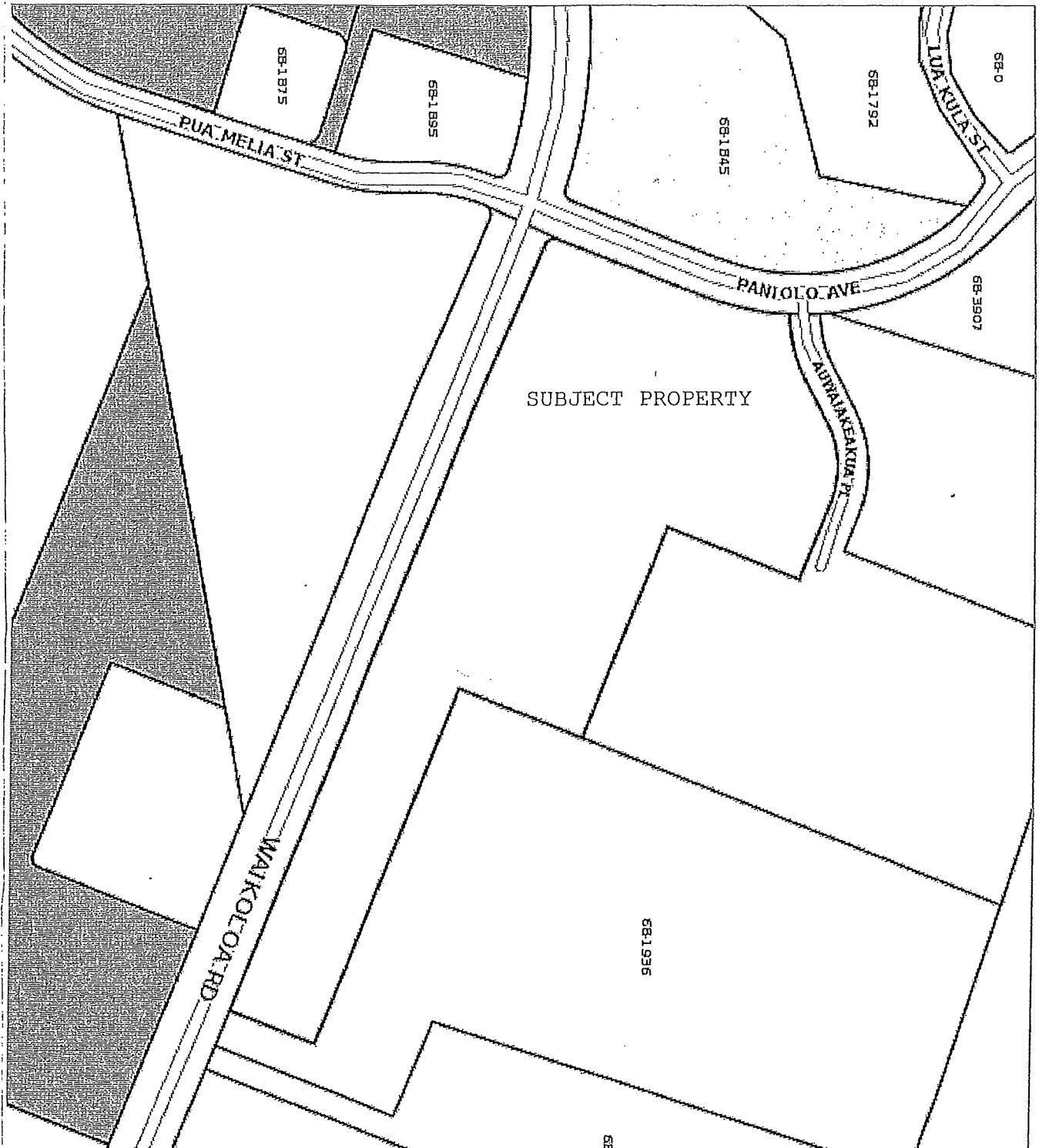
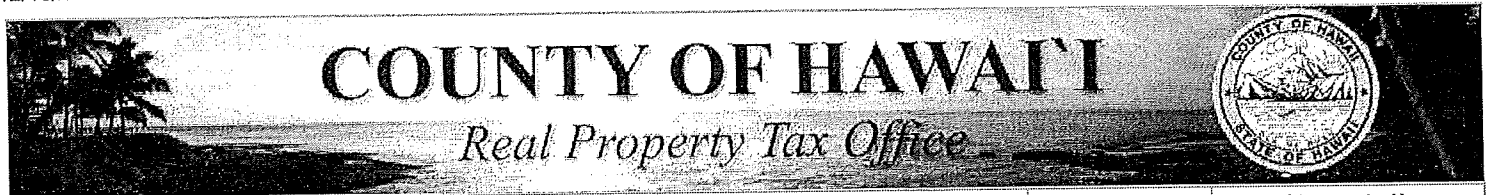


EXHIBIT "7"



<a href="#">Recent Sales in Area</a>	<a href="#">Previous Parcel</a>	<a href="#">Next Parcel</a>	<a href="#">Return to Main Search Page</a>	<a href="#">Hawaii Home</a>	<a href="#">Real Property Home</a>
<b>Owner and Parcel Information</b>					
Owner Name	MIROYAN, MICHAEL Fee Owner		Today's Date	December 18, 2018	
Mailing Address	PO BOX 3181 SARATOGA, CA 95070-1181		Parcel Number	680020530000	
Location Address			Project Name		
Property Class	AGRICULTURAL		Parcel Map	<a href="#">Show Parcel Map</a> <a href="#">Plat (TMK) Maps</a>	
Neighborhood Code	6822-8		Land Area (acres)	14.622	
Legal Information	FROM: 6802-21 14.622 AC NEW PARCEL		Land Area (approximate sq ft)	636,934	

<b>Assessment Information</b> <a href="#">Show Historical Assessments</a>										
Year	Property Class	Market Land Value	Dedicated Use Value	Assessed Land	Land Exemption	Market Building Value	Assessed Building Value	Building Exemption	Total Market Value	Total Taxable Value
2018	AGRICULTURAL	\$ 658,000	\$ 0	\$ 658,000	\$ 0	\$ 0	\$ 0	\$ 0	\$ 658,000	\$ 658,000

<b>Land Information</b>			
Property Class	Square Footage	Acreage	Agricultural Usage
	636,934	14.622	

<b>Improvement Information</b>	
No improvement information available for this parcel.	

<b>Other Building and Yard Improvements</b>				
Description	Quantity	Year Built	Area	Gross Building Value
No information associated with this parcel.				

<b>Permit Information</b>			
Date	Permit Number	Reason	Permit Amount
No permit information associated with this parcel.			

<b>Dept of Public Works Bldg Division Permit and Inspections Information</b>							
Permit Date	Permit Type	Permit Number	Permit Reason	Permit Description	Estimated Cost	Inspection Date	Inspection Status
No permit and inspections information associated with this parcel.							
As a courtesy to the public, we provide building permit data as supplied by the Department of Public Works. As such, no warranties, expressed or implied, are provided for the data herein, its use or its interpretation, and accuracy.							

<b>Sales Information</b>										
Sale Date	Sale Amount	Instrument #	Instrument Type	Instrument Description	Date of Recording	Land Court Document Number	Cert #	Book/Page	Conveyance Tax	Document Type
08/08/2018	\$ 0	67950847	FEE CONVEYANCE	Warranty Deed	08/09/2018				0	Warranty Deed
11/29/2012	\$ 0		OTHER	Mapping Change	11/29/2012					Mapping Change

<b>Current Tax Bill Information</b> <a href="#">2018 Tax Payments</a> <a href="#">Show Historical Taxes</a>									
Tax Period	Description	Original Due Date	Taxes Assessment	Tax Credits	Net Tax	Penalty	Interest	Other	Amount Due
PRIOR	Real Property Tax	08/20/2013	\$ 0.00	\$ 0.00	\$ 10,907.60	\$ 1,090.76	\$ 6,599.10	\$ 650.00	\$ 19,247.46
2015-1	Real Property Tax	08/20/2015	\$ 0.00	\$ 0.00	\$ 2,183.00	\$ 218.30	\$ 960.52	\$ 0.00	\$ 3,361.82
2015-2	Real Property Tax	02/22/2016	\$ 0.00	\$ 0.00	\$ 2,183.00	\$ 218.30	\$ 816.44	\$ 0.00	\$ 3,217.74
2016-1	Real Property Tax	08/22/2016	\$ 0.00	\$ 0.00	\$ 2,183.00	\$ 218.30	\$ 672.36	\$ 0.00	\$ 3,073.66
2016-2	Real Property Tax	02/21/2017	\$ 0.00	\$ 0.00	\$ 2,183.00	\$ 218.30	\$ 528.29	\$ 0.00	\$ 2,929.59
2017-1	Real Property Tax	08/21/2017	\$ 0.00	\$ 0.00	\$ 2,206.60	\$ 220.66	\$ 388.36	\$ 0.00	\$ 2,815.62
2017-2	Real Property Tax	02/20/2018	\$ 0.00	\$ 0.00	\$ 2,206.60	\$ 220.66	\$ 242.73	\$ 0.00	\$ 2,669.99
2018-1	Real Property Tax	08/20/2018	\$ 0.00	\$ 0.00	\$ 3,076.15	\$ 307.62	\$ 135.35	\$ 0.00	\$ 3,519.12
2018-2	Real Property Tax	02/20/2019	\$ 0.00	\$ 0.00	\$ 3,076.15	\$ 0.00	\$ 0.00	\$ 0.00	\$ 3,076.15
									<b>\$ 43,911.15</b>
Tax bill is computed to 12/31/2018 Or pay online at <a href="http://payments.ehawaii.gov/propertytax/hawaii">http://payments.ehawaii.gov/propertytax/hawaii</a> Other Payment Options Click <a href="#">Here</a>									

<a href="#">Recent Sales in Area</a>	<a href="#">Previous Parcel</a>	<a href="#">Next Parcel</a>	<a href="#">Return to Main Search Page</a>	<a href="#">Hawaii Home</a>	<a href="#">Real Property Home</a>
The Hawaii County Tax Assessor's Office makes every effort to produce the most accurate information possible. No warranties, expressed or implied, are provided for the data herein, its use or interpretation. Website Updated: December 17, 2018					

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EXHIBIT "8"

# SCHLUETER, KWIAT & KENNEDY LLLP

75-167 Kalani St, Suite 201  
Kailua-Kona, HI 96740  
808-987-7275  
andrew@kona-lawyer.com

TO: Kai v. Hawaii Riverbend 15-1-164K

Invoice Date: December 18, 2018

Date of Service	Description	Time	Rate	Fee	Cost
3/27/2018	open file, review pleadings	0.5	\$175.00	\$87.50	
3/27/2018	telephone call with michael miroyan	0.2	\$175.00	\$35.00	
4/5/2018	review correspondence from plaintiff attorney	0.2	\$175.00	\$35.00	
4/10/2018	telephone call with plaintiff attorney	0.2	\$175.00	\$35.00	
4/10/2018	email to miroyan	0.2	\$175.00	\$35.00	
4/10/2018	notes to file	0.1	\$175.00	\$17.50	
4/10/2018	county website search, review file, review findings	0.5	\$175.00	\$87.50	
4/10/2018	emails from miroyan	0.2	\$175.00	\$35.00	
4/22/2018	emails from miroyan	0.2	\$175.00	\$35.00	
4/22/2018	messages from miroyan	0.2	\$175.00	\$35.00	
4/22/2018	email to miroyan	0.2	\$175.00	\$35.00	
4/23/2018	prep letters to parties, mailing	0.7	\$175.00	\$122.50	
4/23/2018	email to miroyan	0.2	\$175.00	\$35.00	
4/24/2018	telephone call with paul sulla	0.1	\$175.00	\$17.50	
4/24/2018	telephone call with plaintiff's attorney	0.1	\$175.00	\$17.50	
4/24/2018	draft submission to court re: miroyan	1.1	\$175.00	\$192.50	
4/24/2018	telephone call with plaintiff attorney	0.1	\$175.00	\$17.50	
4/24/2018	telephone call with Craig Masuda	0.1	\$175.00	\$17.50	
4/24/2018	notes to file	0.2	\$175.00	\$35.00	
4/25/2018	confer with sulla, miroyan, look into issue regarding corporate representaion	0.3	\$175.00	\$52.50	
5/7/2018	telephone call with sulla, email sulla, notes to file	0.2	\$175.00	\$35.00	
5/7/2018	email from/to sulla	0.1	\$175.00	\$17.50	
5/7/2018	email to/from sulla	0.1	\$175.00	\$17.50	
5/8/2018	review file, notes to file	0.2	\$175.00	\$35.00	
5/8/2018	party mailings	0.2	\$175.00	\$35.00	
5/23/2018	review file, notes to file	0.2	\$175.00	\$35.00	
6/5/2018	review file, prep for site visit	0.5	\$175.00	\$87.50	
6/6/2018	site visit	2.8	\$175.00	\$490.00	
6/12/2018	correspond with miroyan and sulla	0.3	\$175.00	\$52.50	
6/13/2018	correspond with miroyan and sulla	0.2	\$175.00	\$35.00	

6/14/2018	correspond with parties, notes to file	0.1	\$175.00	\$17.50
6/20/2018	correspond with plaintiff's attorney, investigate issue related to neighbor property	0.3	\$175.00	\$52.50
7/3/2018	review property details via google maps, tax map key, identify boundaries, prep for open houses, site visit	3	\$175.00	\$525.00
8/27/2018	review file and set dates	0.7	\$175.00	\$122.50
8/28/2018	confer with miroyan, notes to file	0.1	\$175.00	\$17.50
9/4/2018	confer with plaintiff atty	0.1	\$175.00	\$17.50
9/19/2018	confer with miroyan, notes to file	0.1	\$175.00	\$17.50
9/24/2018	Review file, prepare notice of submission for filing	0.8	\$175.00	\$140.00
9/24/2018	email miroyan, emails with miroyan and Sulla, confer with miryoan	0.4	\$175.00	\$70.00
9/25/2018	confer with plaintiff atty	0.1	\$175.00	\$17.50
10/1/2018	confer with plaintiff counsel	0.1	\$175.00	\$17.50
10/8/2018	confer with miroyan, confer with plaintiff attorney	0.3	\$175.00	\$52.50
10/9/2018	review emails from plaintiff attorney and miroyan	0.1	\$175.00	\$17.50
10/9/2018	prepare fact sheet, notice of sale for publication, proof read	1.1	\$175.00	\$192.50
10/11/2018	revise fact sheet per corrections, prepare fact sheets for distribution	0.9	\$175.00	\$157.50
10/12/2018	correspond with newspaper	0.1	\$175.00	\$17.50
10/12/2018	review correspondence from miroyan	0.2	\$175.00	\$35.00
10/15/2018	Revise fact sheet and notice for publication per miroyan request, confer with parties, email west hawaii today.	0.4	\$175.00	\$70.00
10/18/2018	email from miroyan, response	0.2	\$175.00	\$35.00
10/18/2018	confer with west hawaii today, proof publication	0.4	\$175.00	\$70.00
10/21/2018	confer with potential buyer (x2)	0.2	\$175.00	\$35.00
10/23/2018	amend factg sheet in accordance with Miroyan request. Prepare for distribution	0.4	\$175.00	\$70.00
10/23/2018	confer with potential buyer (x2)	0.2	\$175.00	\$35.00
10/24/2018	confer with potential buyer	0.1	\$175.00	\$17.50
10/25/2018	confer with potential buyer	0.1	\$175.00	\$17.50
10/29/2018	confer with potential buyer	0.1	\$175.00	\$17.50
10/29/2018	prep file for site visit/open houses	0.2	\$175.00	\$35.00
10/29/2018	post fact sheets on community bulletin in Waikoloa, visit local real estate agents and deliver fact sheets	0.8	\$175.00	\$140.00
10/31/2018	confer with potential buyer	0.1	\$175.00	\$17.50
10/31/2018	review email from miroyan, confer	0.3	\$175.00	\$52.50

10/31/2018	review correspondence from Miroyan, from county official regarding zoning	0.2	\$175.00	\$35.00	
11/1/2018	confer with potential buyer	0.1	\$175.00	\$17.50	
11/1/2018	emails from miroyan	0.1	\$175.00	\$17.50	
11/2/2018	emails from miroyan	0.2	\$175.00	\$35.00	
11/3/2018	prepare for open house/site viewing	0.4	\$175.00	\$70.00	
11/3/2018	open house	3.5	\$175.00	\$612.50	
11/4/2018	open house	3.4	\$175.00	\$595.00	
11/5/2018	email from miroyan	0.1	\$175.00	\$17.50	
11/15/2018	emial from miroyan, response	0.2	\$175.00	\$35.00	
11/15/2018	email from miroyan	0.1	\$175.00	\$17.50	
11/26/2018	confer with Eddy Hsu, miroyan atty	0.3	\$175.00	\$52.50	
11/26/2018	Prepare for Auction	0.5	\$175.00	\$87.50	
11/26/2018	auction	0.7	\$175.00	\$122.50	
12/5/2018	confer with court	0.1	\$175.00	\$17.50	
12/17/2018	confer with broker for BPO. Notes on BPO, confer with plaintiff's attorney	0.5	\$175.00	\$87.50	
12/18/2018	commissioner's report	1.8	\$175.00	\$315.00	
		0	\$175.00	\$0.00	
		0	\$175.00	\$0.00	
		0	\$175.00	\$0.00	
		0	\$175.00	\$0.00	
	<b>WIND UP</b>	2	\$175.00	\$350.00	
9/21/2018	Advertising Cost				\$826.56
	<b>Subtotal</b>	<b>36.6</b>		<b>\$ 6,405.00</b>	<b>\$826.56</b>
	<b>Tax (4.166%)</b>		<b>4.16%</b>	<b>\$ 266.45</b>	
	<b>Total</b>			<b>\$ 6,671.45</b>	<b>\$826.56</b>
	<b>Total Fees &amp; Costs Due For This Billing Period</b>				<b>\$7498.01</b>

**CERTIFICATE OF SERVICE**

I hereby certify that a copy hereof was served by U.S. First Class Mail upon: (MAIL  
DATE 12-19-18)

MATTHEW C. SHANNON, ESQ.  
BAYS LUNG ROSE HOLMA  
Topa Financial Center  
700 Bishop St, Suite 900

PAUL SULLA, ESQ.  
106 Kamehameha Ave, #2A  
Hilo, HI 96720

CRAIG MASUDA, ESQ  
CORPORATION COUNSEL  
Hilo Lagoon Centre  
101 Aupuni St, Unit 325  
Hilo, HI 96720

DATED: Kailua-Kona, Hawaii, December 18, 2018

Schlueter, Kwiat & Kennedy LLP

BY:

  
\_\_\_\_\_  
ANDREW M. KENNEDY  
COURT APPOINTED COMMISSIONER

## EXHIBIT TWO

[Plaintiff's Notice of Bankruptcy Filed by Michael Haroutun Miroyan; Exhibit "A"; Certificate of Service - Civil Action No. 15-1-0164K against *Hawaiian Riverbend, LLC* in the Circuit Court of the Third Circuit State of Hawaii]

FILED

Of Counsel:

2018 DEC 20 PM 3:19

BAYS LUNG ROSE & HOLMA

MICHAEL C. CARROLL 7583-0

Attorney at Law

A Law Corporation

MATTHEW C. SHANNON 9043-0

Attorney at Law

A Law Corporation

Topa Financial Center

700 Bishop Street, Suite 900

Honolulu, Hawaii 96813

Telephone: (808) 523-9000

J. Y. LEE  
CLERK, APPELLATE COURTS  
STATE OF HAWAII

Ex Officio Clerk *Bic*  
Circuit Court \_\_\_\_\_ Circuit

Attorneys for Plaintiffs

KENNETH Y. KAI and TAE K. KAI,

TRUSTEES OF THE KAI FAMILY 1998 TRUST

IN THE CIRCUIT COURT OF THE THIRD CIRCUIT

STATE OF HAWAII

KENNETH Y. KAI and TAE K. KAI,  
TRUSTEES OF THE KAI FAMILY 1998  
TRUST,

Plaintiffs,

vs.

HAWAIIAN RIVERBEND, LLC;  
COUNTY OF HAWAII; JOHN DOES 1-10;  
JANE DOES 1-10; DOE CORPORATIONS  
1-10; DOE PARTNERSHIPS 1-10;  
DOE ENTITIES 1-10; and DOE  
GOVERNMENTAL ENTITIES 1-10,

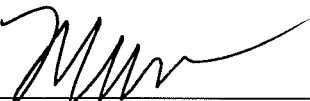
Defendants.

) CIVIL NO. 15-1-0164K  
) (Foreclosure)  
)  
) PLAINTIFFS' NOTICE OF BANKRUPTCY  
) FILED BY MICHAEL HAROUTUN  
) MIROYAN; EXHIBIT A; CERTIFICATE  
) OF SERVICE  
)  
)  
) No Trial Date Set.  
)  
)  
)  
)  
)  
)  
)

**PLAINTIFFS' NOTICE OF BANKRUPTCY FILED BY  
MICHAEL HAROUTUN MIROYAN ON NOVEMBER 26, 2018**

Notice is hereby given that on or about November 26, 2018, Michael Haroutun Miroyan ("Miroyan") filed a voluntary petition for bankruptcy protection in the United States Bankruptcy Court, Northern District of California, Case No. 18-52601 ("Bankruptcy Petition"). Attached hereto as **Exhibit A** is a true and correct copy of the Bankruptcy Petition. Pursuant to 11 U.S.C. § 362(a), this action is hereby stayed until the bankruptcy matter is resolved or the automatic stay is lifted.

DATED: Honolulu, Hawaii, December 20, 2018.

  
\_\_\_\_\_  
MICHAEL C. CARROLL  
MATTHEW C. SHANNON

Attorneys for Plaintiffs/  
Counterclaim Defendants



Debtors may request to receive Court notices and orders by email instead of U.S. mail. Sign Up at [www.canb.uscourts.gov](http://www.canb.uscourts.gov)

**Information to identify the case:**

Debtor 1 **Michael Haroutun Miroyan**

First Name Middle Name Last Name

Social Security number or ITIN [REDACTED]

EIN [REDACTED]

Debtor 2

(Spouse, if filing)

First Name Middle Name Last Name

Social Security number or ITIN [REDACTED]

EIN [REDACTED]

United States Bankruptcy Court Northern District of California

Date case filed for chapter 13 11/26/18

Case number: 18-52601 MEH 13

**Official Form 3091**

**Notice of Chapter 13 Bankruptcy Case**

12/17

For the debtors listed above, a case has been filed under chapter 13 of the Bankruptcy Code. An order for relief has been entered.

This notice has important information about the case for creditors, debtors, and trustees, including information about the meeting of creditors and deadlines. Read both pages carefully.

The filing of the case imposed an automatic stay against most collection activities. This means that creditors generally may not take action to collect debts from the debtors, the debtors' property, and certain codebtors. For example, while the stay is in effect, creditors cannot sue, garnish wages, assert a deficiency, repossess property, or otherwise try to collect from the debtors. Creditors cannot demand repayment from debtors by mail, phone, or otherwise. Creditors who violate the stay can be required to pay actual and punitive damages and attorney's fees. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although debtors can ask the court to extend or impose a stay.

Confirmation of a chapter 13 plan may result in a discharge. Creditors who assert that the debtors are not entitled to a discharge under 11 U.S.C. § 1328(f) must file a motion objecting to discharge in the bankruptcy clerk's office within the deadline specified in this notice. Creditors who want to have their debt excepted from discharge may be required to file a complaint in the bankruptcy clerk's office by the same deadline. (See line 13 below for more information.)

To protect your rights, consult an attorney. All documents filed in the case may be inspected at the bankruptcy clerk's office at the address listed below or through PACER (Public Access to Court Electronic Records at [www.pacer.gov](http://www.pacer.gov)).

**The staff of the bankruptcy clerk's office cannot give legal advice.**

To help creditors correctly identify debtors, debtors submit full Social Security or Individual Taxpayer Identification Numbers, which may appear on a version of this notice. However, the full numbers must not appear on any document filed with the court.

Do not file this notice with any proof of claim or other filing in the case. Do not include more than the last four digits of a Social Security or Individual Taxpayer Identification Number in any document, including attachments, that you file with the court.

	About Debtor 1:	About Debtor 2:
1. Debtor's full name	Michael Haroutun Miroyan	
2. All other names used in the last 8 years		
3. Address	PO Box 3181 Saratoga, CA 95070-1181	
4. Debtor's attorney Name and address	Eddy Hsu Law Office of Eddy Hsu 1900 S Norfolk St. #350 San Mateo, CA 94403	Contact phone (650) 577-5950
5. Bankruptcy trustee Name and address	Devin Derham-Burk P.O. Box 50013 San Jose, CA 95150-0013	Contact phone (408) 354-4413
6. Bankruptcy clerk's office Documents in this case may be filed at this address. You may inspect all records filed in this case at this office or online at <a href="http://www.pacer.gov">www.pacer.gov</a> .	280 South First Street Room 3035 San Jose, CA 95113	Hours open: 9:00 am to 4:30 pm, Monday - Friday Contact phone 408-278-7500 Date: 12/10/18

For more information, see page 2

<b>7. Meeting of creditors</b> Debtors must attend the meeting to be questioned under oath. In a joint case, both spouses must attend. Creditors may attend, but are not required to do so.	<b>January 7, 2019 at 10:30 AM</b>  The meeting may be continued or adjourned to a later date. If so, the date will be on the court docket.	<b>Location:</b> <b>U.S. Federal Bldg., 280 S 1st St. #130, San Jose, CA 95113</b>
<b>Important Notice to Individual Debtors:</b> The United States Trustee requires all debtors who are individuals to provide government-issued photo identification and proof of social security number to the trustee at the meeting of creditors. If a debtor fails to appear, your case may be dismissed without further notice.		
<b>8. Deadlines</b> The bankruptcy clerk's office must receive these documents and any required filing fee by the following deadlines.  <b>For a bankruptcy case pending in the Northern District of California, a Proof of Claim may be filed electronically online at <a href="http://www.canb.uscourts.gov">www.canb.uscourts.gov</a> in the Quick Links section, click on "File an Electronic Proof of Claim."</b>	<b>Deadline to file a complaint to challenge dischargeability of certain debts: You must file:</b> <ul style="list-style-type: none"> <li>a motion if you assert that the debtors are not entitled to receive a discharge under U.S.C. § 1328(f), or</li> <li>a complaint if you want to have a particular debt excepted from discharge under 11 U.S.C. § 523(a)(2) or (4).</li> </ul> <b>Deadline for all creditors to file a proof of claim (except governmental units):</b>  <b>Deadline for governmental units to file a proof of claim:</b>	<b>Filing deadline: 3/8/19</b>           <b>Filing deadline: 2/4/19</b>  <b>Filing deadline: 5/28/19</b>           <b>Deadlines for filing proof of claim:</b> A proof of claim is a signed statement describing a creditor's claim. A proof of claim form may be obtained at <a href="http://www.uscourts.gov">www.uscourts.gov</a> or any bankruptcy clerk's office. If you do not file a proof of claim by the deadline, you might not be paid on your claim. To be paid, you must file a proof of claim even if your claim is listed in the schedules that the debtor filed. Secured creditors retain rights in their collateral regardless of whether they file a proof of claim. Filing a proof of claim submits the creditor to the jurisdiction of the bankruptcy court, with consequences a lawyer can explain. For example, a secured creditor who files a proof of claim may surrender important nonmonetary rights, including the right to a jury trial.           <b>Deadline to object to exemptions:</b> The law permits debtors to keep certain property as exempt. If you believe that the law does not authorize an exemption claimed, you may file an objection.
<b>9. Filing of plan, Hearing on Plan Confirmation</b>	If the debtor has already filed a proper Chapter 13 Plan, the Plan is enclosed. If the debtor has not yet filed a proper Chapter 13 Plan, the Plan will be sent separately. The hearing on confirmation will be held: <b>1/25/19 at 09:55 AM, Location: U.S. Courthouse and Federal Bldg., 280 S 1st Street, Courtroom 3020 3rd Fl., San Jose, CA 95113</b> The case is subject to dismissal, without further notice, upon failure of the debtor to commence making payments called for in the plan, not later than 30 days after the date of the filing of the plan or the order for relief, whichever is earlier. At the confirmation hearing the court may dismiss or convert the case or continue the hearing without prior notice upon a determination the debtor(s) is unable to present a feasible plan. Written objections to confirmation of the plan must be filed with the court on or before the date stated above for the Meeting of Creditors and served upon the trustee, Debtor(s), and Debtors' Attorney.	
<b>10. Creditors with a foreign address</b>	If you are a creditor receiving a notice mailed to a foreign address, you may file a motion asking the court to extend the deadline in this notice. Consult an attorney familiar with United States bankruptcy law if you have any questions about your rights in this case.	
<b>11. Filing a chapter 13 bankruptcy case</b>	Chapter 13 allows an individual with regular income and debts below a specified amount to adjust debts according to a plan. A plan is not effective unless the court confirms it. You may object to confirmation of the plan and appear at the confirmation hearing. A copy of the plan, if not enclosed, will be sent to you later, and if the confirmation hearing is not indicated on this notice, you will be sent notice of the confirmation hearing. The debtor will remain in possession of the property and may continue to operate the business, if any, unless the court orders otherwise.	
<b>12. Exempt property</b>	The law allows debtors to keep certain property as exempt. Fully exempt property will not be sold and distributed to creditors, even if the case is converted to chapter 7. Debtors must file a list of property claimed as exempt. You may inspect that list at the bankruptcy clerk's office or online at <a href="http://www.pacer.gov">www.pacer.gov</a> . If you believe that the law does not authorize an exemption that debtors claimed, you may file an objection by the deadline.	
<b>13. Discharge of debts</b>	Confirmation of a chapter 13 plan may result in a discharge of debts, which may include all or part of a debt. However, unless the court orders otherwise, the debts will not be discharged until all payments under the plan are made. A discharge means that creditors may never try to collect the debt from the debtors personally except as provided in the plan. If you want to have a particular debt excepted from discharge under 11 U.S.C. § 523(a)(2) or (4), you must file a complaint and pay the filing fee in the bankruptcy clerk's office by the deadline. If you believe that the debtors are not entitled to a discharge of any of their debts under 11 U.S.C. § 1328(f), you must file a motion by the deadline.	

**UNITED STATES BANKRUPTCY COURT**  
**FOR THE**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN JOSE DIVISION**


**Order Establishing Procedures for Objection to Confirmation**

1. **Placement on Trustee's Pending List and Hearing Taken Off Calendar:** If an objection to confirmation is filed or a case is otherwise not ready for confirmation based on deficiencies, such as defaults on plan payments, the Trustee will file a Trustee's Statement of Non-Readiness for Confirmation at least 10 days before the confirmation hearing. The court will serve a notice indicating that the case has been placed on the Trustee's Pending List ("TPL") and that no appearances are expected, the plan will not be confirmed, and the matter will be taken off calendar at the confirmation hearing.
2. **Procedures for Restoring Matter to Confirmation Calendar:** A case that is on the TPL may be restored to the confirmation calendar as follows:
  - a. To restore the matter to the Uncontested Confirmation Calendar, the Trustee will file a Trustee's Statement of Resolution when all outstanding objections are resolved, deficiencies have been cured, and the debtor(s) is current on plan payments. The Trustee's docketing of the Statement of Resolution will cause the court to issue a notice that the restored confirmation hearing is set on the date of the next available Uncontested Confirmation Calendar and to serve the notice on parties in interest.
  - b. To restore a contested confirmation matter to calendar so the court can resolve factual or legal issues, any party in interest (including the debtor(s)) may file and serve in conformity with B.L.R. 9014-1(a) a Notice of Hearing and Certificate of Service on 28 days' notice to parties in interest. The matter may be set on any Contested Confirmation Calendar date posted on the court's website, but only if these three conditions are met: (1) the § 341 meeting has concluded; (2) the parties have met and conferred in good faith (in person or by telephone); and (3) the dispute is ready to be submitted for resolution, trial setting, evidentiary hearing, or briefing.

No later than 14 days before the hearing, the noticing party shall file a Chapter 13 Status Conference Statement identifying: (a) the disputed factual and legal issues; (b) the date and time when the parties conferred; and (c) the time estimate for trial or argument. If the Chapter 13 Status Conference Statement is not timely filed, the matter will be stricken from the calendar. Matters stricken from the Contested Confirmation Calendar must be re-noticed for hearing by submitting a new Notice of Hearing, Certificate of Service, and Chapter 13 Status Conference Statement.

Approved.

Dated: July 1, 2015

  
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STEPHEN L. JOHNSON  
United States Bankruptcy Judge

*M. Elaine Hammond*

M. ELAINE HAMMOND

United States Bankruptcy Judge

*Hannah L. Blumenstiel*

HANNAH L. BLUMENSTIEL

United States Bankruptcy Judge

IN THE CIRCUIT COURT OF THE THIRD CIRCUIT

STATE OF HAWAII

KENNETH Y. KAI and TAE K. KAI,	)	CIVIL NO. 15-1-0164K
TRUSTEES OF THE KAI FAMILY 1998	)	(Foreclosure)
TRUST,	)	
	)	CERTIFICATE OF SERVICE
Plaintiffs,	)	
	)	
vs.	)	
	)	
HAWAIIAN RIVERBEND, LLC;	)	No trial date set.
COUNTY OF HAWAII; JOHN DOES 1-10;	)	
JANE DOES 1-10; DOE CORPORATIONS	)	
1-10; DOE PARTNERSHIPS 1-10;	)	
DOE ENTITIES 1-10; and DOE	)	
GOVERNMENTAL ENTITIES 1-10,	)	
	)	
Defendants.	)	
	)	
	)	

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CERTIFICATE OF SERVICE

I hereby certify that on the date noted below, a copy of the foregoing document was duly served on the following parties at their last known addresses by depositing same in the U.S. Mail, postage pre-paid:

PAUL J. SULLA, JR., ESQ.  
P.O. Box 5258  
Hilo, Hawaii 96720

Attorney for Defendant/Counterclaimant  
HAWAIIAN RIVERBEND, LLC

ANDREW M. KENNEDY, ESQ.  
75-167 Kalani Street, Suite 201  
Kailua-Kona, Hawaii 96740

Court Appointed Commissioner

JOSEPH K. KAMELAMELA, ESQ.  
Corporation Counsel  
CRAIG T. MASUDA, ESQ.  
RENEE N. C. SCHOEN, ESQ.  
Deputies Corporation Counsel  
County of Hawaii  
101 Aupuni Street, Suite 325  
Hilo, Hawaii 96720

Attorneys for Defendant  
COUNTY OF HAWAII

DATED: Honolulu, Hawaii, December 20, 2018.



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MICHAEL C. CARROLL  
MATTHEW C. SHANNON

Attorneys for Plaintiffs/  
Counterclaim Defendants